

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION  
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Arizona Corporation Commission

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SEP 18 2018

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*[Signature]*

COMMISSIONERS

2018 SEP 18 A 10:31

TOM FORESE - Chairman  
BOB BURNS  
ANDY TOBIN  
BOYD DUNN  
JUSTIN OLSON

In the matter of:

DOCKET NO. S-21055A-18-0309

SKYTRACE, Inc., an Idaho corporation,

**NOTICE OF OPPORTUNITY FOR HEARING  
REGARDING PROPOSED ORDER TO CEASE  
AND DESIST, ORDER FOR RESTITUTION,  
ORDER FOR ADMINISTRATIVE  
PENALTIES AND ORDER FOR OTHER  
AFFIRMATIVE ACTION**

ROBERT S. SMITH (CRD #1145094), and  
JANICE SMITH, husband and wife, and

ROLAND B. WOOLSEY, a married man,

Respondents.

**NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING  
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Skytrace, Inc., Robert S. Smith, and Roland B. Woolsey have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

The Division also alleges that Robert S. Smith and Roland B. Woolsey are persons controlling Skytrace, Inc. within the meaning of A.R.S. § 44-1999(B), so that they are jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as Skytrace, Inc. for its violations of the anti-fraud provisions of the Securities Act.

**I.**

**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution, and the Securities Act.

## II.

## RESPONDENTS

2. At all times relevant, Robert S. Smith ("Smith") was married to Janice Smith, and both are residents of Arizona since at least October of 2015. Prior to that, Smith was a resident of the state of Washington.

3. Since at least October 5, 1993 until at least December 2, 2003, Smith was registered with the Washington State Department of Financial Institutions Securities Division in association with broker-dealer Safeco Investment Services, Inc. ("Safeco"), as a securities salesperson (CRD #1145094), based in the state of Washington.<sup>1</sup>

4. Smith has not been registered with the Commission as a securities salesmen or dealer.

5. At all times relevant, Roland B. Woolsey ("Woolsey") was married and a resident of Idaho. Woolsey has not been registered by the Commission as a securities salesmen or dealer.

6. Skytrace, Inc. ("Skytrace") is an Idaho corporation organized under the laws of the state of Idaho since January of 2012. Skytrace also operates under the assumed business names Unblinking Infomatics and Unblinking Technologies. Smith and Woolsey are the incorporators and directors of Skytrace. Skytrace has not been registered with the Commission as a securities salesman or dealer.

7. Janice Smith was at all relevant times the spouse of Smith. Janice Smith may be referred to as "Respondent Spouse." Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.

8. At all times relevant, Smith has been acting for his benefit and for the benefit or in furtherance of Smith's and Respondent Spouse's marital communities.

9. Skytrace, Smith, and Woolsey (may be referred to collectively as "Respondents").

<sup>1</sup> On August 30, 2004, Safeco changed its primary business name to Symetra Investment Services, Inc. ("Symetra"), and on October 11, 2013, Symetra changed its primary business name to Signator Financial Services, Inc. (CRD #19061).

**III.****FACTS**

10. On or about January 23, 2007, the Washington State Department of Financial Institutions Securities Division ("WSD") filed a Statement of Charges and Notice of Intent to Enter Order to Cease and Desist and Notice of Intent to Deny Future Registration against Smith ("WSD Notice"). According to the Tentative Findings of Fact section of the WSD Notice, Smith offered investment opportunities that involved promissory notes in a company that manufactured oil absorbent fiber products, to at least two investors. Both investors signed promissory notes and were promised 15% interest per annum and monthly interest payments of \$2,500. However, both investors received a "few monthly payments ... but the payments stopped and never resumed."

11. According to the Tentative Findings of Fact section of the WSD Notice, Smith also offered investment opportunities that involved short-term promissory notes in a company that "purportedly manufactured global positioning devices for vehicle tracking purposes," to at least two investors. Both investors signed promissory notes and were promised 15% interest per annum. However, both investors never received any return on their investments.

12. On September 18, 2007, WSD and Smith entered into a Consent Order ("WSD Consent Order"). Smith neither admitted nor denied the Tentative Findings of Fact and Conclusions of Law sections of the WSD Notice, which were incorporated by reference into the WSD Consent Order. Smith consented and agreed: to cease and desist from offering and selling securities in violation of the securities registration section of the Securities Act of Washington; to cease and desist from violating the anti-fraud section of the Securities Act of Washington; and to not apply for a broker-dealer, securities salesman, investment adviser or investment adviser representative license with WSD for three years.

13. In 2009, Smith and Woolsey created Skytrace to sell GPS fleet tracking and on-board diagnostic technology [also known as telematics] for application in the automobile industry. Woolsey

1 is the Chief Executive Officer and Smith is the Chairman of the Board of Skytrace. Smith's role in  
2 Skytrace includes building relationships with strategic vendors and "raising capital" from investors.

3 14. From at least January of 2010 until at least July of 2017, Respondents offered and/or  
4 sold securities relating to Skytrace outside the state of Arizona to at least five investors, who are not  
5 Arizona Residents, raising approximately \$7,050,000.

6 15. From at least October of 2015, to at least January of 2016, Respondents offered  
7 investment opportunities in Skytrace within or from Arizona to at least three offerees, two of the  
8 offerees were Arizona Residents.

9 16. On or about November 2015, Respondents offered and sold securities in the form of  
10 a promissory note ("Skytrace Note") within or from Arizona to at least one Arizona resident ("AZ  
11 Investor").

12 17. In October of 2015, Smith moved to Arizona and became a member of a country club  
13 in Mesa, Arizona (hereinafter "Mesa Country Club"). Shortly thereafter, Smith was introduced to the  
14 AZ Investor and her husband ("Offeree 1"), by mutual acquaintances, at the Mesa Country Club.  
15 Smith represented to the AZ Investor and Offeree 1 that he was the co-founder of Skytrace, a start-  
16 up company with enormous potential. Smith asked the AZ Investor and Offeree 1 if they knew  
17 anyone that would be interested in investing in Skytrace.

18 18. On several occasions Smith joined Offeree 1's group to play golf. During a round of  
19 golf at the Mesa Country Club, Smith offered Offeree 1 an opportunity to "invest in a short-term,  
20 high interest paying loan agreement," to help Skytrace "get off the ground" and nationally launch  
21 Skytrace's GPS fleet tracking and on-board diagnostic technology product. Offeree 1 asked Smith to  
22 provide him with succinct details regarding Skytrace and the investment opportunity.

23 19. Smith provided Offeree 1 with a one-page company profile ("Company Profile") of  
24 Unblinking Infomatics, which is an assumed business name of Skytrace. According to the Company  
25 Profile, Skytrace offers a web-based application for auto dealers to manage their inventory and a  
26 phone and web-based application for auto owners to manage use of their vehicles. "In both cases the

1 applications come with devices installed in the vehicles to provide the information and connectivity  
2 to enable the applications.”

3 20. According to the Company Profile, Skytrace is seeking to raise \$10,000,000 in  
4 investment capital, and is projected to generate \$413,319,750 in total revenue by 2018.

5 21. Smith had follow-up conversations with both AZ Investor and Offeree 1, regarding  
6 the investment opportunity in Skytrace. During one of the conversations, AZ Investor asked Smith if  
7 he was certain that Skytrace would be a success. In response, Smith represented to AZ Investor and  
8 Offeree 1 that he had other large investors (including a specified NFL athlete and a specified NBA  
9 owner) ready to invest up to \$10 million dollars in Skytrace. Smith further represented that the  
10 Skytrace investment “was offering a better interest rate [2.5%]” than the 1% to 2% the AZ Investor  
11 was already earning. Upon information and belief, the “large investors” did not invest in Skytrace.

12 22. Smith further provided the AZ Investor and Offeree 1 with a copy of Skytrace’s M2M  
13 Platform Investment Profile (“Investment Profile”). Under the Executive Summary section of the  
14 Investment Profile, it states “Skytrace is seeking investment [sic] to scale production of its second  
15 generation Mobile to Mobile (M2M) platform ... [t]he platform creates new and unique value in the  
16 market (~\$750M).”

17 23. Based on Smith’s representations and the Skytrace documents provided by Smith, the  
18 AZ Investor decided to individually invest in Skytrace. On or about November 3, 2015, Smith met  
19 the AZ Investor and Offeree 1 at their home in Mesa, Arizona. The AZ Investor issued a check for  
20 \$150,000 to Skytrace and gave the check to Smith. In exchange for the check, Smith gave the AZ  
21 Investor a promissory note issued by Skytrace (“Skytrace Note”), which was executed by the AZ  
22 Investor and later by Woolsey.

23 24. According to Exhibit A of the Skytrace Note, the Respondents relied on a Regulation-  
24 D exemption from registration. However, during the relevant time-period, Smith and/or Woolsey  
25 failed to ask and/or verify whether the AZ Investor and/or Offeree 1 were accredited investors. When  
26 in fact, neither AZ Investor nor Offeree 1 were accredited investors.

1           25.     According to the Skytrace Note, “[t]his Note is delivered in Mesa, Arizona, and it  
2 shall be deemed to have been made there.”

3           26.     According to the Skytrace Note, the AZ Investor was promised interest payments of  
4 2.5% [\$3,750] each month for the first four months of the loan agreement. And, the entire unpaid  
5 balance of \$150,000 “shall be due and payable on March 1, 2016.” If the Debtor “defaults under the  
6 terms of this Note ... then all indebtedness evidenced by this Note, together with all other monies  
7 owing by Debtor to Lender shall be due and payable immediately in full without notice, at the election  
8 of the Lender.”

9           27.     Under the Warrants section of the Skytrace Note, it states “Debtor agrees to hold  
10 150,000 shares of class A common stock in reserve for Lender (Warranty Stock) and Lender has the  
11 right at any time during the term of this Note to request in writing the exchange of debt for stock at  
12 the rate of \$1 of debt for 1 share of stock to a total of \$150,000 shares of stock in exchange for the  
13 entire debt.”

14          28.     Neither the Skytrace Note nor Skytrace’s common stock have been registered with  
15 the Commission.

16          29.     Smith deposited the AZ Investor’s investment check into Skytrace’s bank account at  
17 Wells Fargo Bank. At all relevant times, Smith and Woolsey have been signatories of Skytrace’s  
18 bank account.

19          30.     On or about December 1, 2015, the AZ Investor received her first interest payment in  
20 the amount of \$3,275, which was \$475 short of the promised 2.5%. On or about December 8, 2015,  
21 Offeree 1 contacted Smith on behalf of the AZ Investor, via email, regarding the underpayment of  
22 the interest payment. On or about December 9, 2015, Woolsey responded, via email, and stated “[t]he  
23 issue with the check was likely transposition of numbers either on my end or accounting ... I will get  
24 it rectified tomorrow.”

25          31.     On January 3, 2016, Smith sent an email (“January 2016 Email”) to two individuals,  
26 which was a follow-up to a prior conversation at the Mesa Country Club. One of the individuals,



1 who received the email was a resident of Arizona ("Offeree 2"). The other individual who received  
2 the email was a resident of Colorado ("Offeree 3"). The Subject line in the email stated "SkyTrace  
3 Investment Information." Attached to the email was Skytrace's M2M Platform Investment Profile.

4 32. According to the January 2016 Email, Smith offered Offeree 2 and Offeree 3 an  
5 opportunity to invest in Skytrace. The email stated in pertinent part:

6 Further to our conversation in Alta Mesa [Mesa Country Club] I have attached  
7 a copy of the power point presentation we prepared for T-Systems North  
8 America (TSNA, a division of Duetsche [sic] Telekom) which highlights our  
9 position and strengths in the M2M space. TSNA has verbally committed to  
10 acquire 10% interest in SkyTrace, Inc., our parent company, upon the  
11 successful launch of MyCar/CarMatics which is scheduled for this month. I  
12 have verbally communicated to the position we have with over 6000  
dealerships in the space, superior technology, and a "war chest" with 10's of  
millions in committed "lot loading" funding. We are currently seeking  
participation from "friends and family" for up to \$1MM in amounts of \$100K  
or more to aggressively attack this market opportunity.

13 33. For the month of January 2016, the AZ Investor did not receive her promised 2.5%  
14 interest payment of \$3750. On or about February 2, 2016, the AZ Investor received an interest  
15 payment in the amount of \$4,225. The additional \$475 only covered the remaining balance that was  
16 due on the December 2015 interest payment.

17 34. On or about February 15, 2016, the AZ Investor sent an email to Smith and Woolsey  
18 with an attached letter stating, "I elect to exercise my right to be repaid by check my principle [sic],  
19 and remaining interest due, in the total amount of \$157,000 on or before March 1, 2016." On February  
20 15, 2016, Smith sent a response email to AZ Investor stating "[w]e have received your email and  
21 acknowledge your request."

22 35. From at least April of 2016, to at least August of 2016, AZ Investor sent at least three  
23 Demand of Payment letters to the Respondents, via email. From at least October of 2016, to at least  
24 June of 2017, Offeree 1 sent at least three Demand of Payment letters, on behalf of AZ Investor, to  
25 the Respondents, via email. On February 14, 2017, Woolsey sent a response email to Offeree 1 stating  
26 that he was in receipt of Offeree 1's letter. Woolsey further stated that he has been in negotiations

1 with a group from South Korea for a \$10,000,000 investment in Skytrace, and that there was no  
2 guarantee that it will get finalized. Woolsey further stated “[i]n light of the situation a supportive  
3 attitude would be better because if this thing goes down, nobody gets paid and everybody loses. Rest  
4 assured that as soon as we are in a position to do so you will get paid.”

5 36. On or about July 27, 2017, Woolsey sent another response email to AZ Investor and  
6 Offeree 1 stating “[w]e are currently trying to set a meeting with investors from Korea ... we may be  
7 able to consummate a deal. We have 4 other potential investors that we may be able to stitch together  
8 to get us fully funded. We are still on track ... to deploy to multiple dealers. That is all I have for  
9 now.”

10 37. The AZ Investor invested \$150,000 and has only received \$7,000 back in interest  
11 payments. As of this date, the AZ Investor has not received the promised 2.5% interest payments for  
12 the month of January 2016, and March 2016, and has not received a return of her principal. Upon  
13 information and belief, Respondents used a portion of the AZ Investor’s funds to pay back another  
14 investor and to cover the Respondents’ salaries.

15 **Misrepresentations and Omissions of Material Fact**

16 38. Smith misrepresented to the AZ Investor and Offeree 1 that he had other large  
17 investors (including a specified NFL athlete and a specified NBA owner) ready to invest up to \$10  
18 million dollars in Skytrace. Upon information and belief, the Respondents never attained an  
19 investment commitment from the specified NFL athlete or the specified NBA owner, and neither the  
20 specified NFL athlete nor the specified NBA owner have had any contact with the Respondents and  
21 both are not familiar with the Respondents.

22 39. Smith misrepresented to Offeree 2 and 3 that TSNA (a division of Deutsche Telekom)  
23 verbally committed to acquire a 10% interest in Skytrace. When in fact, TSNA never verbally committed  
24 to investing in Skytrace. According to TSNA’s Vice President, there was no “direct discussion or  
25 negotiations with them [Skytrace] but just us looking at whether it will be an option to invest.”  
26



40. Respondents failed to disclose the WSD Consent Order against Smith to at least the AZ Investor and Offeree 1.

41. Respondents failed to disclose to the AZ Investor that the WSD Consent Order against Smith included allegations related to Smith offering investment opportunities that involved short-term promissory notes to investors in a company [similar to Skytrace], which manufactured global positioning devices for vehicle tracking purposes, and none of these investors received any return on their investments.

42. Respondents failed to disclose to the AZ Investor that the WSD Consent Order against Smith included allegations related to Smith offering investment opportunities that involved promissory notes to investors who were promised monthly payments [similar to the Skytrace Note] and these investors stopped receiving their promised payments after a few months.

#### IV.

**VIOLATION OF A.R.S. § 44-1841**

**(Offer or Sale of Unregistered Securities)**

43. From at least October 2015, to at least January 2016, Respondents offered and/or sold securities in the form of a promissory note, within or from Arizona.

44. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

45. This conduct violates A.R.S. § 44-1841.

**V.**

**VIOLATION OF A.R.S. § 44-1842**

**(Transactions by Unregistered Dealers or Salesmen)**

46. Respondents offered and/or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

47. This conduct violates A.R.S. § 44-1842.

## VI.

## VIOLATION OF A.R.S. § 44-1991

## (Fraud in Connection with the Offer or Sale of Securities)

48. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

a) Smith misrepresented to the AZ Investor and Offeree 1 that he had other large investors (including a specified NFL athlete and a specified NBA owner) ready to invest up to \$10 million dollars in Skytrace;

b) Smith misrepresented to Offeree 2 and 3 that TSNA verbally committed to acquire a 10% interest in Skytrace;

c) Respondents failed to disclose the WSD Consent Order against Smith to at least the AZ Investor and Offeree 1;

d) Respondents failed to disclose to the AZ Investor that the WSD Consent Order against Smith included allegations related to Smith offering investment opportunities that involved short-term promissory notes to investors in a company that was similar to Skytrace, and none of these investors received any return on their investments; and

e) Respondents failed to disclose to the AZ Investor that the WSD Consent Order against Smith included allegations related to Smith offering investment opportunities that involved promissory notes to investors who were promised monthly payments [similar to the Skytrace Note] and these investors stopped receiving their promised payments after a few months.

49. This conduct violates A.R.S. § 44-1991.

50. Respondent Smith and Respondent Woolsey directly or indirectly controlled Respondent Skytrace within the meaning of A.R.S. § 44-1999(B). Therefore, Respondent Smith and Respondent Woolsey are jointly and severally liable under A.R.S. § 44-1999 to the same extent as Respondent Skytrace for any violations of A.R.S. § 44-1991.

VII.

### REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. §44-2032;

2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order that the marital community of Respondent Smith and Respondent Spouse be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and

5. Order any other relief that the Commission deems appropriate.

## VIII.

## HEARING OPPORTUNITY

Each respondent [including Respondent Spouse] may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be

1 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at  
2 <http://www.azcc.gov/divisions/hearings/docket.asp>.

3 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20  
4 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or  
5 ordered by the Commission. If a request for a hearing is not timely made the Commission may, without  
6 a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for  
7 Hearing.

8 Persons with a disability may request a reasonable accommodation such as a sign language  
9 interpreter, as well as request this document in an alternative format, by contacting Kacie Cannon,  
10 ADA Coordinator, voice phone number (602) 542-3931, e-mail [kcannon@azcc.gov](mailto:kcannon@azcc.gov). Requests  
11 should be made as early as possible to allow time to arrange the accommodation. Additional  
12 information about the administrative action procedure may be found at  
13 <http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp>

## 14 IX.

### 15 ANSWER REQUIREMENT

16 Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing,  
17 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing  
18 to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona  
19 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be  
20 obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site  
21 at <http://www.azcc.gov/divisions/hearings/docket.asp>.

22 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant  
23 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a  
24 copy of the Answer to the Division at 1300 West Washington, 3<sup>rd</sup> Floor, Phoenix, Arizona, 85007,  
25 addressed to Michael Shaw.

1 The Answer shall contain an admission or denial of each allegation in this Notice and the  
2 original signature of the answering respondent or respondent's attorney. A statement of a lack of  
3 sufficient knowledge or information shall be considered a denial of an allegation. An allegation not  
4 denied shall be considered admitted.

5 When the answering respondent intends in good faith to deny only a part or a qualification of  
6 an allegation, the respondent shall specify that part or qualification of the allegation and shall admit  
7 the remainder. Respondent waives any affirmative defense not raised in the Answer.

8 The officer presiding over the hearing may grant relief from the requirement to file an Answer  
9 for good cause shown.

10 Dated this 18<sup>th</sup> day of September 2018.

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13 Acting Director Mark Dinell  
14 Director of Securities  
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